

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Frederick L. Howell,	)	C/A No. 4:12-2808-JFA-TER
	)	
Petitioner,	)	
	)	
v.	)	ORDER
	)	
Attorney General of the State of	)	
South Carolina,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the court upon motion of the petitioner for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. On October 19, 2012, petitioner initiated this action pursuant to 28 U.S.C. § 2254, seeking a writ of habeas corpus as to his state conviction and 22-year sentence after pleading guilty to first degree burglary.

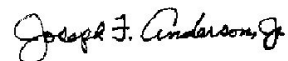
The Magistrate Judge assigned to this action prepared a comprehensive Report and Recommendation suggesting that respondent's motion for summary judgment be granted because the petition was untimely and barred by the statute of limitations. After the petitioner filed objections to the Report, the court requested a supplemental Report from the Magistrate Judge on the issue of *Martinez v. Ryan*, 132 S.Ct. 1309 (2012). In an order dated February 24, 2014, the undersigned adopted the Report of the Magistrate Judge and granted respondent's motion for summary judgment.

On this record, petitioner now returns to this court for a motion for relief pursuant to Fed. R. Civ. P. Rule 60(b)(1)(6). As an initial matter, petitioner contends that this Rule 60(b) motion is not a second or successive habeas petition because he is only challenging the court's ruling that his petition was time-barred and that this does not "present a claim for relief from petitioner's state conviction." Essentially, petitioner contends that the court misapplied the federal statute of limitations set out in 28 U.S.C. § 2244(d).

This court has carefully reviewed the petitioner's motion and the record in this case. The February 24, 2014 order and the adopted Report and Recommendation adequately set forth this court's reasoning in dismissing the action and the court sees no meritorious reason to disturb its ruling. Accordingly, the motion for relief from judgment (ECF No. 98) is denied.

IT IS SO ORDERED.

December 15, 2014  
Columbia, South Carolina



Joseph F. Anderson, Jr.  
United States District Judge